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Docket No.: 217902US2S CONT

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

ATTORNEYS AT LAW

GREGORY J. MAIER
(703) 413-3000
GMAIER@OBLON.COM

ECKHARD H. KUESTERS
(703) 413-3000
EKUESTERS@OBLON.COM

RE: Application Serial No.: 10/042,196

Applicants: Rieko CHUJO

Filing Date: January 11, 2002

For: METHOD OF MANUFACTURING SURFACE
ACOUSTIC WAVE DEVICE AND SURFACE
ACOUSTIC WAVE DEVICE

Group Art Unit: 2834

Examiner: M. O. BUDD

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Gregory J. Maier

Registration No. 25,599



22850

(703) 413-3000 (phone)
(703) 413-2220 (fax)

Eckhard H. Kuesters
Registration No. 28,870

217902US2S CONT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

RIEKO CHUJO : GROUP: 2834
SERIAL NO. 10/042,196 : EXAMINER: M. O. BUDD
FILED: JANUARY 11, 2002 :
FOR: METHOD OF MANUFACTURING
SURFACE ACOUSTIC WAVE DEVICE ...

PROVISIONAL ELECTION

ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

SIR:

In response to the Restriction Requirement dated January 15, 2003, Applicants elect with traverse Group II, Claims 5-7, drawn to a surface acoustic device classified in class 310, subclass 313R. Applicants make this election based on the understanding that Applicants are not prejudiced against filing one or more divisional applications that cover the non-elected claims.

The Restriction Requirement asserts that the application contains claims to distinct inventions. However, MPEP § 803 states the following:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The outstanding Official Action identifies only two search classifications. It is believed that the claims of the present invention would have to be searched in only a small handful of subclasses, and would in any event appear to be part of an overlapping search area. Furthermore, since electronic searching is commonly performed, a search may be made of a large number

of, or theoretically all, subclasses without substantial additional effort. Accordingly, Applicants respectfully traverse the Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would be a serious burden on Applicants to prosecute and maintain two separate applications.

Accordingly, on the basis that the burden on the Examiner would not be undue, Applicants respectfully traverse the outstanding restriction requirement and request examination on the merits of each of pending Claims 1-7.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Eckhard H. Kuesters
Registration No: 28,870
Attorneys of Record



22850

Fax No.: (703) 413-2220

GJM:EHK:mh

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